

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

ANDREW MARSO, on behalf of himself)	
and others similarly situated,)	
)	
Plaintiff,)	
)	
v.)	Case No. 19-cv-02671-KHV-KGG
)	
SAFESPEED, LLC and VILLAGE OF)	
NORTH RIVERSIDE, ILLINOIS)	
)	
Defendants.)	
)	

MEMORANDUM AND ORDER ON MOTION FOR EXTENSION OF TIME

Now before the Court is Plaintiffs’ motion for extension of time (Doc. 119) to complete discovery. The motion is opposed by the Defendants. After reviewing the submissions of the parties, the Court **GRANTS** the Plaintiffs’ motion.

Under the original scheduling order, the fact discovery deadline was on May 5, 2021. The Court has once extended the fact discovery deadline to August 5, 2021. The Court subsequently granted a motion to compel in this case on September 13, 2021, after the date the original motion was filed. Here, Plaintiffs request the Court’s permission to extend the deadline for fact discovery to November 3, 2021.

Rule 16 provides that “[a] schedule may be modified only for good cause and with the judge's consent.” Fed. R. Civ. P. 16(b)(4).

To establish ‘good cause’ the moving party must show that the scheduling order's deadline could not have been met with diligence. *Parker v. Cent. Kansas Med. Ctr.*, 178 F.Supp.2d 1205, 1210 (D. Kan. 2001); *Denmon v. Runyon*, 151 F.R.D. 404, 407 (D. Kan. 1993). ‘This rule gives trial courts

‘wide latitude in entering scheduling orders,’ and modifications to such orders are reviewed for abuse of discretion.’ *In re Davis*, 353 B.R. 674, (B.A.P. 10th Cir. 2006) (citing *Burks v. Okla. Publ’g Co.*, 81 F.3d 975, 978-79 (10th Cir. 1996)).

Grieg v. Botros, No. 08-1181-EFM-KGG, 2010 WL 3270102, at *3 (D. Kan. Aug. 12, 2010). It is well-established in this District that motions to modify a scheduling order focus “on the diligence of the party seeking to modify the scheduling order.” *Id.* (citing *Leviton Mfg. Co., Inc. v. Nicor, Inc.*, 245 F.R.D. 524, 528 (D.N.M. 2007) (internal citations omitted)).

The Court finds that because a motion to compel in this case was granted after the current discovery deadline, it is appropriate to allow additional time to complete discovery. The Plaintiffs did not have access to the information pertaining to Request for Production No. 21 and Interrogatory No. 9, which was the basis for the motion to compel. As such, the Court finds “good cause” under Rule 16 to allow for a modification of the scheduling order. The parties are hereby given until November 3, 2021 to complete discovery.

IT IS THEREFORE ORDERED that Plaintiff’s motion for extension of time, (Doc. 119), is **GRANTED**.

IT IS SO ORDERED.

Dated September 20, 2021, at Wichita, Kansas

/S KENNETH G. GALE
Kenneth G. Gale
U.S. Magistrate Judge